

**Pages 1 - 9**

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

Before The Honorable Yvonne Gonzalez Rogers, Judge

CHASOM BROWN, ET AL.,	)	
	)	
Plaintiffs,	)	
	)	
VS.	)	<b>NO. CV 20-03664-YGR</b>
	)	
GOOGLE LLC, ET AL.,	)	
	)	
Defendants.	)	
_____	)	

Oakland, California  
Thursday, August 3, 2023

**TRANSCRIPT OF PROCEEDINGS**

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Thursday - August 3, 2023

1:30 p.m.

P R O C E E D I N G S

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**THE CLERK:** Good afternoon, Your Honor. Calling the matter of CV 20-3664, Brown, et al. vs. Google LLC, et al.

Parties, please state your name for appearances. Thank you.

**MR. BOIES:** Good afternoon, Your Honor. David Boies of Boies Schiller Flexner on behalf of plaintiffs.

**MR. YANCHUNIS:** Good afternoon, Your Honor. John Yanchunis, also on behalf of the plaintiffs.

**MR. MAO:** Good afternoon, Your Honor. Mark Mao on behalf of plaintiffs.

**MR. FRAWLEY:** Alexander Frawley on behalf of the plaintiffs from Susman Godfrey.

**MR. MCGEE:** Good afternoon, Your Honor. Ryan McGee from Morgan and Morgan, also on behalf of the plaintiffs.

**MR. ISSACHAROFF:** Good afternoon, Your Honor. Samuel Issacharoff for the plaintiffs.

**MR. SCHAPIRO:** Good afternoon. Andrew Schapiro from Quinn Emanuel for Google.

**THE COURT:** Okay.

**MR. BROOME:** Good afternoon, Your Honor. Stephen Broome for Google.

**MS. TREBICKA:** Good afternoon, Your Honor. Viola

1 Trebicka with Quinn Emanuel for Google.

2 **MS. OLSON:** Good afternoon, Your Honor. Aly Olson  
3 with Quinn Emanuel for Google.

4 **THE COURT:** Ms. Olson, we can't hear you.

5 **MR. SCHAPIRO:** We heard you about softly, Aly. You  
6 need to speak louder or closer.

7 **MS. OLSON:** Is this better?

8 **THE COURT:** Very -- well, I'm not sure what, if  
9 anything, you are going to say. It's very hard to hear you,  
10 but let's get going.

11 So I put this on for status conference. I had hoped to  
12 have the order out on the summary judgment motion. It will be  
13 out very shortly. It's not going to be out -- obviously it's  
14 not out before today, and my hope had been that it would be.

15 The short answer is you need to prepare for trial, and you  
16 have a -- you have your -- your schedule, so I guess the  
17 question is whether you anticipated that you were going to go  
18 to trial and so you have things to say right now, or if you  
19 hadn't and you want to meet again after you get the order, we  
20 could do that. But you've got -- you've got deadlines coming  
21 up, which is what I wanted you to know.

22 Right now your trial is set for November 6th. It may not  
23 happen on November 6th. It may happen after Thanksgiving.  
24 Kind of depends on whether the trials in front of you settle or  
25 not.

1           So as you heard, I am in trial all of September. You  
2       didn't know that it was the entire month of September, but I  
3       know you were sitting in the waiting room listening.

4           Many of you are not from this area, but back on May 29th,  
5       2020, during a Black Lives Matter demonstration, two  
6       individuals came to our courthouse, shot and killed and maimed  
7       two of our court security officers. One has pled guilty and is  
8       serving his sentence, and the other is going to trial. We're  
9       picking that jury on September 6th. I anticipate that trial  
10      going through the beginning of October.

11          I have another criminal trial that will trail and that  
12      should go right after that. And then I've got another trial  
13      between two business competitors over trade secrets and ongoing  
14      business issues that's urgent. We've got an injunction issued  
15      in that case, and that is set to go after the second of the  
16      criminal trials.

17          So those are my priorities. And then the other cases that  
18      I have will just trail.

19          So I can tell you I don't anticipate that other civil case  
20      settling, but it can, in which case your November 6th trial  
21      date will stick because I have more cases that want to be tried  
22      by the end of this year.

23          That's important because in January, I start a three-month  
24      prison gang RICO trial. Again, criminal trials take precedence  
25      always over civil trials, and that means that everything else

1 will get backed up until those criminal -- until that criminal  
2 trial is done. So I am working to make sure that I get as many  
3 of these civil trials out after my criminal trials.

4 That's kind of the lay of the land.

5 So let's start with you, Mr. Schapiro. Since you're going  
6 to be on the losing end of that summary judgment motion, see  
7 where you want to go.

8 **MR. SCHAPIRO:** I'm sorry. I missed the final part you  
9 said after saying we're on the losing end of the motion.

10 **THE COURT:** See where you want to go. Do you want to  
11 look at the schedule now? You have -- August 17th is your  
12 first day --

13 **MR. SCHAPIRO:** Yes. Your Honor, we obviously were not  
14 presuming anything about how the SJ motion was going to come  
15 out, so we've been chugging ahead with our eye on the schedule  
16 that has been set, planning on the November 6th trial and all  
17 the prior dates that come before that. So we're -- we're  
18 moving along, and I don't think we need anything in that  
19 regard.

20 The only thing that is open right now in that regard that  
21 I can think of is you had asked us at the last conference or  
22 one of the last conferences to get together with the plaintiffs  
23 and suggest a former federal judge to add to the special master  
24 for deposition designations. I wasn't quite sure whether it  
25 was also for other issues. And I think we have a proposal in

1 front of you that we settled on, but it needs to be reviewed,  
2 and if the Court accepts it, so ordered before anything can  
3 start on that or at least that's what we've been told.

4 **THE COURT:** Okay. Well, my apologies. I did not look  
5 at that before today. I didn't realize it was there. I was  
6 trying to get some other things out.

7 So what is the proposal, Mr. Schapiro?

8 **MR. SCHAPIRO:** It is -- it's escaping me right now.  
9 Retired Magistrate Judge Laporte.

10 **THE COURT:** Okay. Elizabeth Laporte?

11 **MR. BOIES:** Yes, Your Honor.

12 **THE COURT:** Great. I believe she did the Apple/Epic  
13 trial in that regard. She did a lot of the pretrial stuff.

14 And so I can issue the order. Is there something -- I  
15 haven't looked at it, so are there any peculiarities about it  
16 that you want to discuss?

17 **MR. SCHAPIRO:** No. I mean, I suppose we -- it wasn't  
18 clear, at least to us on the Google side, what the scope there  
19 would be. You mentioned it particularly in the context of  
20 deposition designations. Are there other types of issues that  
21 you anticipate or prefer us to bring before Judge Laporte or is  
22 that it? We are neutral, whatever the Court prefers.

23 **THE COURT:** What I'm trying to do is streamline kind  
24 of basic evidentiary issues so that I can focus on the bigger  
25 evidentiary issues, so if there are -- and I don't -- you know,

1 look, sometimes litigants are terrific at resolving these  
2 issues on their own and sometimes they're not. I don't know  
3 where you fall on the spectrum, so I will look. My calendar is  
4 pretty packed, so to the extent that -- to the extent that  
5 you're comfortable with outsourcing some of these smaller  
6 things, I will take the assistance. To the extent you're not,  
7 you'll get answers when I have time to give you answers. So  
8 it's really up to you.

9 **MR. YANCHUNIS:** Your Honor, John Yanchunis.

10 I believe you had earlier indicated that we could take  
11 evidentiary issues of any evidence that we intended --  
12 documents that we intended to use at trial.

13 **THE COURT:** I'm sorry. Mr --

14 **MR. YANCHUNIS:** Yanchunis, Your Honor.

15 I believe Judge Laporte was also to look at any  
16 evidentiary fights that we might have as to evidence.

17 **THE COURT:** Okay. And is that in the proposed form of  
18 order?

19 **MR. BROOME:** Your Honor, just to be clear, I don't  
20 think a proposed form of order has been submitted yet. We  
21 indicated in the CMC that we would submit one at Your Honor's  
22 request. We can do that. After this conference, we can meet  
23 with the plaintiffs and come up with an order and then submit  
24 it to you within the next day or so.

25 **THE COURT:** Okay. That's fine. Then I can take a



1 look.

2 I'm trying to look at your schedule here. I think I have  
3 you next on then October --

4 **MR. BOIES:** Yes.

5 **THE COURT:** -- October 11th.

6 **MR. BOIES:** It was either October 11th or  
7 October 13th.

8 **MS. TREBICKA:** It's October 13, Your Honor.

9 **THE COURT:** Okay. Well, we should be able to keep  
10 that on the. I'm hopeful that my trial will be over by then.  
11 Don't be surprised -- you know, if I have to push you to 2:00,  
12 I have to push you to 2:00, but I could also be waiting for a  
13 jury, in which case we're just going to -- you know, we'll just  
14 have to be flexible.

15 Okay. Anything else you want to talk about today?

16 **MR. BOIES:** Not from the plaintiffs, Your Honor.

17 **MR. SCHAPIRO:** We'll wait for the order, Your Honor.

18 **THE COURT:** All right. If you think you need another  
19 conference before then, just reach out, and we can put  
20 something on the calendar, and we can do it by Zoom. Okay?

21 **MR. BOIES:** Thank you, Your Honor.

22 **THE COURT:** All right. Thank you. We're adjourned.

23 (Proceedings adjourned at 1:41 p.m.)  
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CERTIFICATE OF REPORTER

I certify that the foregoing is a correct transcript  
from the record of proceedings in the above-entitled matter.

DATE: Monday, August 7, 2023

*Pamela Batalo Hebel*

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Pamela Batalo Hebel, CSR No. 3593, RMR, FCRR  
U.S. Court Reporter